

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MARCH 18, 2003

CALL TO ORDER/NOTING OF QUORUM

Chairperson DePrez called the meeting to order and noted the quorum and the attendance. Present were Vice Chairperson Glass, Commissioner Davis and Commissioner Marks. Also in attendance were Industry Liaison Okey, Superintendent Davis and Executive Secretary Webb.

Ronna Chappell of ILBA, Lisa Goldner of Bose, McKinney and Evans, Pam Ferguson of WSWI, Jim Calvert and Keith Petruska of Olinger and Debbie Scott of IABR were present as observers.

COMMUNICATIONS FROM THE FLOOR

No Communications From the Floor.

DISPOSITION OF MINUTES

Commissioner Marks moved to approve the minutes that were submitted for the March 4, 2003 meeting. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR49-05552 FOX ENTERPRISES, INC. – Hearing Judge Webb stated this was an appeal case that was a recommended denial by the Marion County Local Board and an upholding of that denial by the Commission. The permittee filed a timely notice of appeal and the matter was set for hearing. This appeal was heard by former Hearing Judge Steiner. Hearing Judge Webb reviewed the entire file, including the tapes from the local board and appeal hearings, and now submits his Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

Commissioner Davis moved to uphold the Hearing Judge's recommendation to reverse the local board and approve the renewal. Motion seconded by Commissioner Marks and it was unanimously approved.

DL76-96230 MICHAEL LUBY – Chairperson DePrez stated this appeal was heard by former Hearing Judge Daniel Steiner and his Findings of Fact and Conclusions of Law were mailed to all interested parties. The Chairperson said she would find it difficult to uphold these findings because they lack specificity.

Chairperson DePrez moved to refer this case to Hearing Judge Webb, so he can review the record and submit more specific findings in this matter. Motion seconded by Commissioner Davis and it was unanimously approved.

CONSIDERATION OF APPLICATIONS

I incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by said staff with the authority of the Commission, and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks and it was unanimously approved.

I incorporate by reference these lists of permit applications for a new permit or application for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners and hereby move for approval of same and inclusion of these lists as part of the minutes by exhibit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

I incorporate by reference these lists of permits to be placed in escrow for not more than one year, which have been reviewed and recommended by a Commissioner as appropriate for first or second year escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes by exhibit. Motion seconded by Commissioner Marks and it was unanimously approved.

Three hundred fifty-one (351) renewals approved, twenty-five (25) new and/or transfer permits approved, eight (8) permits conditionally approved, nine (9) permits approved for first year escrow, and seven (7) permits approved for second year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Marks moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPLICATIONS FOR DISCUSSION

DI46-20182 LIQUOR VAULT, LLC – Vice Chairperson Glass noted this is a new type 217 application with the local board voting four (4) to zero (0) to approve. Remonstrators were present questioning whether or not this location was in a residential area.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

RC50-04045 MOOSE LODGE #741 – Vice Chairperson Glass noted this is a type 211-4 renewal application with the local board voting three (3) to one (1) to approve. The one

local board member who voted to deny this renewal stated this premise has become a public nuisance.

Vice Chairperson Glass moved to uphold the local board's recommendation to approve this renewal. Motion seconded by Commissioner Marks and it was unanimously approved.

RR12-02209 KEVIN C. SMITH – Vice Chairperson Glass noted this is a type 210 renewal application with the local board voting three (3) to one (1) to disapprove. The three local board members who voted to deny stated this premise has become a public nuisance.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny this renewal. Motion seconded by Commissioner Davis and it was unanimously approved.

DL02-20180 RICE PROPERTIES, INC. – Vice Chairperson Glass noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove. The three local board members stated there was no need for the services.

Vice Chairperson Glass moved to uphold the local board's recommendation to deny the new permit. Motion seconded by Commissioner Davis and it was unanimously approved.

INACTIVE FILES

Commissioner Marks moved to make twelve (12) permits inactive. Three permits (3) were subject to auction and nine (9) were not subject to auction. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

RR49-06133 ANNIE & CARLTON ENTERPRISES – Commissioner Marks stated this permit was made inactive, but the permittee was never notified of the Commission's final action. The permittee would like to have this permit reactivated.

Commissioner Marks moved to reactivate this permit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

RR84-05940 MAGGIE & COMPANY – Commissioner Marks stated this permit was made inactive, but the permittee was never notified of the Commission's final action. A request has been made to reactivate this permit.

Commissioner Marks moved to reactivate this permit. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

APPEALS FROM LOCAL BOARD RECOMMENDATIONS

No appeals filed.

OLD BUSINESS

LSA DOCUMENT #02-338 KEG TRACKING RULES – Executive Secretary Webb stated the public hearing on the above-mentioned rules will be Monday, March 24, 2003 at 10:00 a.m., in the Commission hearing room.

NEW BUSINESS

LOCAL BOARD MEMBER CONFLICT – ATTORNEY GENERAL OPINION – Chairperson DePrez stated one of the Adams County Local Board members sits on the board of directors of a not-for-profit establishment that holds an alcoholic beverage permit in a different county than where he votes as a board member. The Chairperson stated that the Commission is requesting that the Attorney General submit a formal opinion in this matter to determine whether or not this is a conflict. The local board member will remain on the board until a determination has been made in this matter.

HERRON SCHOOL OF ART JANUS BALL – Herron School of Art is requesting permission to serve donated alcoholic beverages at their Janus Ball.

NOBLESVILLE MAIN STREET, INC. *CAIO BELLA* – Noblesville Main Street, Inc. is requesting permission to serve donated alcoholic beverages at their *Caio Bella*.

CARMEL DAD’S CLUB SPECIAL SPORTS PROGRAMS FUNDRAISER – Carmel Dad’s Club would like to serve donated alcoholic beverages at their Special Sports Programs fundraiser.

Commissioner Davis stated he asked Industry Liaison Okey to notify the organizations that make requests and tell them their requests need to be made at least 30 days prior to their event.

Commissioner Davis moved to approve the requests. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

OAK HILL WINERY, LLC – Industry Liaison Okey stated the Commission had a request from Oak Hill Winery to use out-of-state fruit juice, if the supply of Indiana grapes isn’t sufficient for production of their wines. Mr. Okey stated that there is a provision for that in our statutes.

Commissioner Davis moved to approve this request. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

FERRIN’S FRUIT WINERY – Industry Liaison Okey stated the Commission received a request from Ferrin’s Fruit Winery to have a second location to display their wine at the Carmel Farmer’s Market.

Commissioner Davis moved to approve this request. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

POLICY DETERMINATIONS

MARION COUNTY LOCAL BOARD REQUIREMENTS – Chairperson DePrez stated that the Marion County Local Board now requires that all new and transfer applications must send written notice to neighboring property owners within 500 feet of the establishment. The application will not be approved if only the orange sign is posted.

UNDER ADVISEMENT

Nothing under advisement.

ANNOUNCEMENTS

No announcements.

ADJOURNMENT

Commissioner Marks moved to adjourn the meeting. Motion seconded by Vice Chairperson Glass and it was unanimously approved.

Approved this _____ day of _____, 2003.

MARY DEPREZ, CHAIRPERSON

BARBARA L. GLASS, VICE CHAIRPERSON

JAMES DAVIS, COMMISSIONER

GIGI M. MARKS, COMMISSIONER